S.B. CIVIL WRIT PETITION NO.668/2004
Vinay Singhvi vs. State of Rajasthan and others.

Date : 14.12.2004

HON'BLE MR. PRAKASH TATIA, J.

Mr. Jitendra Chopra, for the petitioner.
Mrs. Vidhyawati Bora, for the respondents.

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Heard learned counsel for the parties.

It appears that the petitioner filed a suit for permanent injunction and submitted an application for grant of temporary injunction under Order 39 Rule 1 & 2 C.P.C. This application was dismissed by the trial court vide order dated 9.5.96. Appeal against the said order was dismissed by the appellate court vide order dated 4.3.97. However, on revision filed by the petitioner being S.B. Civil Revision Petition No.240/1997, the respondents were restrained from dispossessing the petitioner vide order dated 10.3.97. Despite the said interim order, the petitioner was dispossessed from the premises in dispute. Upon which, this Court on 19.3.97, directed the respondents to remove the locks within 24 hours and allow access to the property to the petitioner.

Learned counsel for the petitioner submits that in compliance of the above order dated 19.3.97, the possession has been delivered to the petitioner. After amendment of the Civil Procedure Code, the aforesaid revision petition was dismissed by this Court in view of the decision of the Hon'ble Supreme Court delivered in the case of Surya Dev Rai vs. Ram Chandra Rai and others reported in 2003 (6) SCC 675, with liberty to the petitioner to challenge the impugned order.

With this liberty, the petitioner preferred this writ petition challenging the

orders of the two courts below. It appears that the petitioner is in possession since long as he is claiming to be in possession from 1992. The petitioner's possession is not in dispute in view of the fact that the petitioner was dispossessed during the pendency of the injunction application but the possession was restored to the petitioners by order of this Court in this litigation itself. In this background, it will be absolutely unjust and improper to permit the respondents to evict the petitioner during the pendency of the injunction suit before the trial court. The position which is in existence at present is required to be maintained as this Court while dismissing the revision petition directed the trial court to decide the suit expeditiously.

In view of the above, this writ petition is partly allowed and both the parties are directed to maintain status quo with respect to the property in dispute during the pendency of the suit.

(PRAKASH TATIA), J.

S.Phophaliya